



Comptroller General
of the United States

Washington, D.C. 20548

Mr. Morrow

Decision

Matter of: Nova International, Inc.
File: B-241473
Date: February 13, 1991

Tim H. Rose for the protester.
Capt. Andrew E. Squire, Department of the Army, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Proposal, which was found unacceptable and significantly inferior to those in the competitive range, was properly eliminated from the competitive range, where the agency has identified numerous deficiencies in the proposal consistent with the evaluation criteria and the protester did not rebut the alleged deficiencies.

DECISION

Nova International, Inc. protests the rejection of its proposal under request for proposals (RFP) No. MDA903-90-R-0058, a total small business set-aside, issued by the Defense Supply Service-Washington (DSS-W), for the design and installation of HON modular office furniture.^{1/} The furniture is intended for a furniture upgrade program of Army occupied space.

We deny the protest.

^{1/} The Army reports that HON brand name furniture is an open plan furniture system, which uses workstations that are freestanding, as opposed to panel supported, allowing for easier installation and reconfiguration without disturbing adjacent workstations. The interchangeability of the workstation components allows the agency to save space and money by maintaining a smaller inventory.

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The RFP was issued on May 2, 1990, to obtain professional office space planning (design) and installation of HON modular furniture on a firm, fixed-price, indefinite delivery/indefinite quantity basis for fiscal year 1991 and 4 option years. Design and installation were two separate line items of the RFP, which provided offerors with the option to submit a proposal for either item or both, and permitted separate awards for each item.

Regarding the design item, the RFP advised that technical proposals would be evaluated against four major factors listed in descending order of importance: (1) Designer Experience and Qualifications; (2) Understanding the Problem; (3) Technical Approach, Management and Production Plan; and (4) Final Product Analysis. For the installation item, the RFP listed two major factors in descending order of importance: (1) Installer Experience and Qualifications; and (2) Management and Installation Plan. Cost/price was stated to be subordinate to technical considerations.

On May 31, DSS-W received 10 offers for the design portion of the RFP and 9 offers for the installation portion. These offers were evaluated by a five member technical evaluation board (TEB). The TEB determined that for the design portion the four top rated offerors, which had received technical scores from 77.6 to 97.3 on a 100-point scale, were in the competitive range. Similarly, the TEB found the four top rated offerors for the installation portion, which had received scores from 85.57 to 89.95, constituted the competitive range for that item. Nova was the seventh rated offeror for each item receiving technical scores of 44.3 for design and 41.14 for installation.

DSS-W determined that Nova's proposal was technically unacceptable with no reasonable chance of receiving an award without a major rewrite of the proposal. By letter dated September 7, DSS-W informed Nova that it was not within the competitive range for either item. Nova immediately requested a technical debriefing. DSS-W informed Nova that no technical debriefing would be provided until after the award. After DSS-W awarded the contract for both items to Datastor on September 27, Nova filed this protest in our Office on October 3.

Nova contends DSS-W improperly eliminated its proposal from the competitive range for each item because Nova allegedly is one of the largest HON modular furniture installers in the Washington, D.C. area. Nova argues that the initial proposal was complete in all respects and no basis exists for the determination that its proposal was not within the competitive range.

In a negotiated procurement the competitive range consists of all proposals that have a reasonable chance of being selected for award, including deficient proposals that are susceptible of being made acceptable through discussions. Hummer Assoc., B-236702, Jan. 4, 1990, 90-1 CPD ¶ 12. The evaluation of proposals and the resulting determination as to whether an offeror is in the competitive range are matters within the discretion of the contracting activity, since it is responsible for defining its needs and for deciding on the best methods of accommodating them. Rainbow Technology, Inc., B-232589, Jan. 24, 1989, 89-1 CPD 66. In reviewing an agency's evaluation, we will not reevaluate the technical proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and in accord with the RFP evaluation criteria. Id.

As indicated by Nova's low technical scores, DSS-W determined Nova to be technically unacceptable for the design and installation. Nova's proposal was found not to demonstrate that Nova had the required expertise to handle a project of this size, nor did it contain certain information required by the RFP.

Regarding the design evaluation, the TEB found that Nova's proposal showed (1) limited knowledge of HON modular furniture; (2) limited knowledge of space planning, since its submitted floorplans indicate very few workstations; (3) limited staff space planning experience due to insufficient resumes; (4) inadequate references (only one appeared to relate to space planning); (5) no information in support of its design procedures, e.g., site visits, client interviews, adjacency and verbal/visual requirements, and verification of space measurements and power and phone sources; (6) no mention of assigned personnel other than the design supervisor; (7) no information about facilities and equipment necessary to perform the design functions; and (8) submitted floorplans did not contain the right size aisles and the proper number of exit routes.

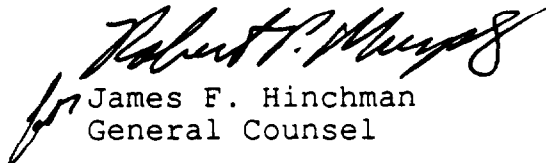
With respect to the installation evaluation, the TEB found Nova's proposal (1) did not contain resumes for additional installation personnel and personnel directly assigned for participation in the contract; only the supervisor was identified; (2) indicated the supervisor had only 2 years experience; (3) indicated Nova's past experience was in installing only a small number of HON modular workstations; information was insufficient to determine Nova's experience on a job of this magnitude; (4) did not document the materials, tools, and related equipment necessary to transport, build and install modular furniture; (5) provided no information on installation procedures; and (6) did not adequately define the division of labor.

Nova did not specifically rebut the reasons advanced by the Army for rejection of its offer.^{2/} Instead, Nova argues that its proposal had sufficient detail because the RFP did not require elaborate detail and the project is very simple.

The RFP evaluation criteria clearly advised what would be evaluated. The deficiencies found in Nova's proposal were consistent with these criteria. Section L-7(a) of the RFP's proposal instructions advised that "special mention should be made of related projects including references" and that the sample floorplan should be one that the offeror had accomplished. Section L-7(b) required the offeror to identify personnel assigned to the project and to submit resumes which clearly present the employees' qualifications relevant to the work. Under the circumstances, Nova was reasonably found unacceptable and eliminated from the competitive range.

Nova argues that since it offered the lowest priced proposal, DSS-W was required to provide it the opportunity to correct the deficiencies in its proposal. However, an agency need not conduct discussions with an offeror whose proposal is reasonably determined to be technically unacceptable and outside the competitive range, regardless of its low price. Rainbow Technology, Inc., B-232589, supra.

The protest is denied.


for James F. Hinchman
General Counsel

^{2/} After intervention by our Office, Nova was provided with complete evaluation documentation pertaining to its proposal. See 4 C.F.R. § 21.3(f) (1990).